

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 7087

August 21, 2023

SUMMARY OF BILL: Increases the penalty for stalking, aggravated stalking, or especially aggravated stalking by one classification if the offense was committed due to the defendant's bias motivation against the victim. Classifies the offense as a hate crime. Effective October 1, 2023.

FISCAL IMPACT:

Increase State Expenditures - \$17,900 Incarceration

**Decrease Local Expenditures - \$1,000/FY23-24
\$1,400/FY24-25 and Subsequent Years**

Assumptions:

Enhancing the Penalty for Stalking, from a Class A Misdemeanor to a Class E Felony:

- Pursuant to Tenn. Code Ann. § 39-17-315(b)(2), it is a Class A misdemeanor for a person to intentionally engage in stalking.
- The proposed draft legislation enhances such penalty to a Class E felony offense if the offense was committed due to the defendant's bias motivation against the victim.
- Based on the Tennessee Bureau of Investigation's Hate Crimes in Tennessee annual report, there were an average of 1.6 bias motivated hate crimes committed that involved stalking in each of the last five years.
- This analysis assumes 1.6 convictions for stalking will be enhanced from a Class A misdemeanor to a Class E felony as a result of this legislation.
- The average time served for a Class E felony offense is 0.59 years.
- The proposed legislation will result in 1.6 admissions annually serving 0.59 years.
- Based on population data from the U.S. Census Bureau, population growth in Tennessee averaged 1.07 percent per year (from 2019 to 2022).
- The weighted average operational costs per day are estimated to be \$50.63 for inmates housed at state facilities and \$52.11 for inmates housed at local facilities.
- The increase in incarceration costs is estimated to be the following over the next three-year period:

| Increase in State Expenditures | |
|--------------------------------|-------------|
| Amount | Fiscal Year |
| \$ 17,600 | FY24-25 |
| \$ 17,800 | FY25-26 |
| \$ 17,900 | FY26-27 |

Enhancing the Penalty for Stalking, from a Class E Felony to a Class D Felony:

- Pursuant to Tenn. Code Ann. § 39-17-315(b)(3), it is a Class E felony offense for a person to intentionally engage in stalking if the defendant, at the time of the offense was required to or was registered with the TBI as a sexual offender, violent sexual offender or violent juvenile sexual offender.
- The proposed draft legislation enhances such penalty to a Class D felony offense if the offense was committed due to the defendant's bias motivation against the victim.
- Based upon information provided by the Department of Correction (DOC), there has been an average of 0.5 admissions per year over the last 10 years for the Class E felony offense under Tenn. Code Ann. § 39-17-315(b)(3) for felony stalking.
- Due to the low number of average admissions, it is reasonably assumed there will not be a sufficient number of prosecutions for state government to experience any significant increase in revenue or expenditures.

Enhancing the Penalty for Aggravated Stalking, from a Class E Felony to a Class D Felony:

- Pursuant to Tenn. Code Ann. § 39-17-315(c)(2), aggravated stalking is a Class E felony offense.
- The proposed legislation enhances such penalty to a Class D felony offense if the offense was committed due to the defendant's bias motivation against the victim.
- Based on the Tennessee Bureau of Investigation's Hate Crimes in Tennessee annual report, there were zero bias motivated hate crimes committed that involved aggravated stalking in each of the last five years.
- Based upon information provided by the DOC, there has been an average of 8.8 admissions per year over the last 10 years for the Class E felony offense under Tenn. Code Ann. § 39-17-315(c)(2) for aggravated stalking.
- Due to the low number of average admissions, it is reasonably assumed there will not be a sufficient number of prosecutions for state government to experience any significant increase in revenue or expenditures.

Enhancing the Penalty for Especially Aggravated Stalking, from a Class C Felony to a Class B Felony:

- Pursuant to Tenn. Code Ann. § 39-17-315(d)(2), especially aggravated stalking is a Class C felony offense.
- The proposed legislation enhances such penalty to a Class B felony offense if the offense was committed due to the defendant's bias motivation against the victim.

- Based on the Tennessee Bureau of Investigation's Hate Crimes in Tennessee annual report, there were zero bias motivated hate crimes committed that involved especially aggravated stalking in each of the last five years.
- Based upon information provided by the DOC, there has been an average of 1.5 admissions per year over the last 10 years for the Class C felony offense under Tenn. Code Ann. § 39-17-315(d)(2) for especially aggravated stalking.
- Due to the low number of average admissions, it is reasonably assumed there will not be a sufficient number of prosecutions for state government to experience any significant increase in revenue or expenditures.
- Pursuant to Chapter 1007 of 2022, recurring costs increases are to be estimated on the highest of the next three fiscal years; therefore, the recurring increase in incarceration costs will be \$17,900.

Decrease in Class A Misdemeanors:

- It is assumed that an individual convicted of a Class A misdemeanor offense will spend an average of 15 days in a local jail.
- Based on cost estimates provided by local government entities throughout the state and reported bed capacity within such facilities, the weighted average cost per day to house an inmate in a local jail facility is \$58.21.
- The recurring mandatory decrease in expenditures to local governments is estimated to be \$1,048 [(1.6 convictions x \$58.21 x 15) x 75%] in FY23-24 and \$1,397 (1.6 convictions x \$58.21 x 15) in FY24-25 and subsequent years.
- Based on the Fiscal Review Committee's 2008 study and the Administrative Office of the Courts' 2012 study on collection of court costs, fees, and fines, collection in criminal cases is insignificant. The proposed legislation will not significantly change state or local revenue.
- The estimated fiscal impact of the proposed legislation does not consider the availability of beds in state and local facilities, but is based solely on the current operating costs of state facilities and the reimbursement rates for local facilities as is required by Tenn. Code Ann. § 9-4-210.
- All calculations used in completion of this fiscal analysis are available upon request.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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